

TOWN OF UNION

MONTHLY BOARD MEETING

Minutes of Thursday, July 8, 2010

The Town of Union monthly board meeting was called to order by Chairman Kendall Schneider at 7:00 p.m. on Thursday, July 8, 2010 at the Eager Free Public Library, 39 W. Main Street, Evansville, WI. Board members in attendance included Chairman Schneider, Supervisors George Franklin and Don Krajeck. Also in attendance were Clerk Regina Ylvisaker, Constable Kim Gruebling, Building Inspector Bob Fahey, Town Attorney Matt Dregne, and Plan Commission members Dave Pestor, Doug Zweizig and Eric Larsen. The Pledge of Allegiance was recited.

Clerk's Minutes (June 3, 2010)

Motion to approve the minutes of the June 3, 2010 Board meeting as written made by Don Krajeck. Second by George Franklin. Motion carried by unanimous voice vote.

Treasurer's Report

Treasurer Sharon Franklin was absent; balances as of June 30, 2010 were presented by George Franklin:

Local Gov't Investment Pool General Fund	\$	0.00
Park and Recreation Fund	\$	12,410.78
UB&T Money Market Sweep Account	\$	92,587.50
Of Which \$2,862 is A1 Conversion Fees, And \$25,000 is Re-Valuation Fund		
UB&T Checking Account	\$	10,000.00
Leedlemill Bridge CD	\$	18,322.04
Wayne Disch Memorial Park Fund	\$	2,144.67
Morning Ridge Stub Road CD	\$	19,739.88
Escrow Accounts:		
Robert Janes/Bakers Crossing	\$	813.77

Building Inspector's Report

Building Inspector Bob Fahey reported issuing 5 building permits and one driveway permit during the month of June.

Date	Permit #	Name	Address	Description	Construction Cost	Permit Fee	Inspector's Fee Due
6/1/10	10-16-B	Randy Sebastian	18418 W Emery Rd	Deck	\$3,000.00	\$120.00	\$110.00
6/1/10	10-17-B	Raul Gonzales	7600 N Hwy M	Addition to detached garage	\$5,500.00	\$180.00	\$165.00
6/7/10	10-18-B	Mark Sendelbach	15939 W Union Rd	Screen porch	\$7,000.00	\$180.00	\$165.00
6/26/10	10-19-B	Roger Berg	5503 W Fair St Lot 8	Replace existing overhang	\$1,500.00	\$60.00	\$55.00
6/10/10	10-20-B	Richter Electric/ Christina Van Fossen	6909 N Hwy M Lot 27	Exhaust fan	\$600.00	\$60.00	\$55.00
6/23/10	10-1-D	Terry & Amy Kersten	W Union Rd	Driveway		\$400.00	\$110.00

Constable's Report/Humane Society Contract Update

Constable Kim Gruebling received a report of a stray cat on East Union Road. Additionally he received a call from Melissa Percy, East Union Road, who reported that her neighbors horses had entered her property and damaged her grass. Gruebling suggested Percy contact her neighbors to resolve the issue.

Brush Report

Franklin had nothing to report.

Roadwork Update

The Board agreed that the scheduling of a special meeting to discuss roadwork should occur before the next regular monthly Board meeting. Clerk Ylvisaker will schedule a date/time.

Public Comment (5 minutes max per issue; no action will be taken on any issues)

No comments.

Schneider stated agenda items 11, 12, 13, 14 and 15 would be moved ahead to accommodate the attorney's attendance at the meeting.

Geneo's Bar

Debbie Stueber was in attendance, to represent Gene Heiman of Geneo's; she had initially sent a letter to the Town requesting the agenda item be added. Schneider stated that Stueber and Heiman should understand that being granted a liquor license is a privilege, not a right.

Heiman stated that all the issues brought up by the Building Inspector during his inspections are not new issues, and the building has not been changed in eight years; why haven't these issues been addressed before by the Building Inspector? Heiman stated that over 300 people have been in the building on a regular basis in the past and he does not feel that it is right to reduce the capacity level at this time. Heiman is basically in disagreement with the capacity numbers approved by Fahey. Heiman received new capacity numbers today that stated he is allowed 350 people with the stage in place, 400 without the stage. Additionally, he was told that 270 additional people could be added to the capacity of an additional exit was added to the building. The mechanical bull takes up the space of 39 people.

Regarding noise complaints, Heiman stated that he would put the bands back inside the building with the doors and windows shut and install central air to help resolve the complaints. Schneider noted that the Fire Department needs to have access to the building through the parking lot in case of a fire or other incident. Gene has called Rock County Sheriff's Department, told them that he will put outside bands back inside with doors and windows shut and put air in, to help resolve complaints from neighbors.

Schneider noted that Heiman had been operating flea markets at the bar in violation of the Town's zoning ordinance, and the Town notified him that he needed to apply for a conditional use permit to hold the flea markets to be in compliance with the ordinance. Heiman told Schneider that he would apply for a conditional use permit. At this time, Heiman stated he spoke with his attorney and they will be holding "garage sales" from now on and not applying for a conditional use permit.

Matt Dregne stated it was his understanding that the capacity levels now posted at the bar meet the requirements set forth by the Building Inspector; are Heiman and Stueber stating they are not satisfied with the capacity level? Correct. Dregne stated that when he has seen this issue addressed in other communities, the Building Inspector works with the State to determine legal requirements and capacity levels, and there may be judgments that need to be made – however, those judgments and decisions are to be made by the Building Inspector and the State, not by elected officials. It is not appropriate to consider the past history or whether an issue was caught in the past by the Building Inspector, whether the business owners are happy with that or not. The Town is responsible for following applicable legal requirements and the Board is not required to negotiate this issue with the business owners; they can use legal means to disagree with the Town's decision.

Fahey stated that he has been in contact with the State on this issue, and there has been discussion on what type of building it is, stud vs. masonry, and to be sure exiting was looked at properly. Fahey noted that the issue originally came up as he was there to conduct annual liquor license inspections when he noted the doors were installed improperly, at which time he noted the mechanical bull and the issue of the space it took up and its affect on capacity. He was uncomfortable being aware of a possible problem, i.e. capacity levels, and not addressing it. Fahey stated that he has asked Heiman if he would like the State inspector to visit the site, but Heiman has refused to have Char Martin on site so that is impossible.

Dregne reiterated that if Heiman disagrees with the Building Inspectors determination, there is an

established legal procedure to use for challenging it. Coming to the Town Board to discuss the issue is not the appropriate way to discuss or resolve the issue.

Gruebling stated that with regard to the noise complaints, he lives ½ mile away from the bar and his walls were vibrating at 11 p.m. on the date of one outdoor concert. He felt it was in excess of any noise ordinance the Town has or is considering.

Heiman asked if Fahey has to conduct inspections for the Town; Schneider stated that Heiman could have a State building inspector come in to do the inspections but he would then have to reimburse the Town for the expenses.

To clarify, the engineer & architect setup the buildings occupancy load, and the role of the Building Inspector is to review data to be sure it is correct. The data presented to Fahey wasn't correct the first time he reviewed it, and wasn't correct the second time either.

Public Hearing: Action on Plan Commission recommendation on request for land division made by Barbara George, 11215 N. Hwy. 14, Brooklyn, WI 53521 to separate off 75.6 acres from the existing 230.1 acre parcel #6-20-8, located in the NW ¼ of section 2. The physical address of the parcel is 14101 N. Dunphy Rd.

Clerk Ylvisaker read in the motion from the Plan Commission meeting of June 24, 2010:

"Motion to recommend to the Board approval of the request for land division made by Barbara George, 11215 N. Hwy. 14, Brooklyn, WI 53521 to separate off 75.6 acres from the existing 230.1 acre parcel #6-20-8, located in the NW ¼ of section 2 made by Dave Pestor. Second by Doug Zweizig.

Gruebling asked if further development would be allowed on the 75 acres; it could be further split into two ~35 acre parcels retaining A1 zoning. Friendly amendment made by Kim Gruebling to include the requirement that the 75.6 acre parcel be deed restricted to prevent any further land divisions. Amendment seconded by Renee Exum. It was noted that the legal issues raised by Dregne that apply to the larger parcel would also apply to this parcel. Amendment failed by voice vote.

Roll call vote on original motion: Alvin Francis – abstain; Doug Zweizig – Yes; Eric Larsen – No; Renee Exum – Yes; Dave Pestor – Yes; Kim Gruebling – Yes; Doug Lee - No. Motion carried 4-2."

Public hearing opened at 8:34 p.m.

No comments.

Public hearing closed at 8:35 pm

Motion to approve the recommendation of the Plan Commission and approve the request for land division made by Barbara George, 11215 N. Hwy. 14, Brooklyn, WI 53521 to separate off 75.6 acres from the existing 230.1 acre parcel #6-20-8, located in the NW ¼ of section 2 made by George Franklin. Second by Don Krajeck.

Roll call: Kendall Schneider – Yes; George Franklin – Yes; Don Krajeck – Yes. Motion carried 3-0.

Board Action: Website Host Change

Eric Larsen has done some initial research into the issue of changing the website host for the Town's website, and will return next month with further information and proposal.

Davis Facilities Rental

Dregne stated that the question he was asked to consider was whether the facilities on the Davis property on N. East Union Road can be rented out for graduation parties or similar events, as has been alleged. Dregne reviewed the Town's zoning code and determined it is not an allowable activity in the A1 zoning district. The Town's options are to ask the Davis' to stop renting out the facilities, collect fines for violations of the zoning code, or seek a court order.

The individual who supposedly rented the facilities was in attendance and stated that he did not rent it,

the Davis' let him use it the lodge at no charge. Schneider stated the original complaint did not come as a result of one particular party, there may have been more than one. Dregne reiterated that the Town's options would be to communicate with the Davis' letting them know they are in violation of the zoning code, or seek forfeitures. Franklin noted that he drives by the property quite often, and knows that quite a few parties have been held there, however he doesn't know if they are parties with his family or others that come in and have a party and if there is any charge involved.

Motion to have legal counsel draft a letter to Davis' explaining the zoning violations and possible ramifications of continued violations made by Kendall Schneider. Second by Don Krajeck. Motion carried by unanimous voice vote.

Board Action: MET Tower Forfeitures

Dregne reported that he spoke with Chip Reading, who represents Acciona who owns the MET tower. Acciona's current proposal is to pay a \$5,000 forfeiture and remove the existing MET tower no later than July 31, 2010. Dregne noted that there will be some legal expenses involved in drafting a settlement agreement, hoping under \$1,000. If the issue ended up in litigation, there would be more costs associated with that, likely several thousand dollars to get to a judgment; however if the court found Acciona guilty it would have to impose the minimum forfeiture of \$12,000. Schneider thinks \$5,000 plus \$1,000 for legal expenses would be reasonable. Krajeck agrees.

Dregne suggested including a penalty for not having the MET tower down by the deadline, it could be \$50 per day or more.

Motion to counter the offer made by Acciona with a request for \$6,000, with the additional \$1,000 for legal expenses; and requiring the MET tower be removed by July 31, 2010 with a daily penalty of \$250 per day for each day it stands past the deadline made by Don Krajeck. Second by Kendall Schneider.

Dregne suggests allowing an additional week for removal of the MET tower, as they were under the impression that the Board would meet last week and have a decision then.

Friendly amendment to change removal date to August 7, 2010 made by Don Krajeck. Second by Kendall Schneider. Motion as amended carried by unanimous voice vote.

Cavalier Village Status Update

Dregne updated the Board on the issue. A lawsuit has been filed, and the lawyer representing Cavalier has requesting a meeting to discuss resolving the case. Dregne wanted to talk with the Board regarding their attendance at such a meeting; Schneider would like to attend. Dregne also wanted to clarify that he is still working under the direction given to him by the Board in the past, that being that the Town wants the zoning violations corrected and legal costs covered. Board agreed that is the outcome they desire. Dregne will contact Cavalier's legal counsel to schedule a meeting.

Several residents of Cavalier Village were in attendance and requested information regarding what violations were still outstanding; Clerk Ylvisaker provided them with a copy of the Building Inspector's report of all mobile home parks and violations for 2010.

Recycling Center Update/Electronics Recycling Discussion

Jerry Krueger updated the Board on the Center operations.

Liquor License Status Update/Board Action if Necessary

Ylvisaker reported that all liquor licenses for 2010-2011 had been issued.

Mobile Home Park License Status Update/Board Action if Necessary

Ylvisaker provided the Board and legal counsel with an outline of application and zoning violation status for all mobile home parks. No parks have completely met their requirements to receive licenses as of today.

Motion to have legal counsel draft a letter to all parks outlining specific application materials needed and outstanding zoning violations made by Don Krajeck. Second by George Franklin. Motion carried by unanimous voice vote.

Board Action: Cemetery Mowing Bid

Ylvisaker will contact the interested party with the Town's budgeted amount and see if he is still interested.

Pay Bills

There being no further business to come before the Board, a motion to adjourn was made and seconded. Meeting adjourned at 8:40 p.m. Bills were reviewed and approved for payment.

Respectfully submitted by Clerk Regina Ylvisaker.

Note: minutes are considered draft until reviewed and approved by the Town Board at a properly noticed meeting.